

WATER VESSEL SAFETY PROGRAM

LOSS PREVENTION UNIT
OFFICE OF RISK MANAGEMENT
DIVISION OF ADMINISTRATION
OFFICE OF THE GOVERNOR

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WATER VESSEL SAFETY PROGRAM

Introduction

Because of the high cost of insurance purchased from private companies, the State of Louisiana through the Office of Risk Management devised a self-insurance program for its water vessels. Water Vessel safety is designed to reduce the number and severity of accidents and thereby minimize the financial impact on state government, while providing the safest possible work environment for marine oriented employees.

The Office of Risk Management Loss Prevention Unit has developed a comprehensive Loss Prevention Program as required by R.S. 39:1543.1C for statewide implementation. The Water Vessel Safety Program is part of the overall program. Its purpose is to address safety, control use of vessels, reduce the State's exposure, reduce the loss expenses, achieve accountability, and meet the requirements of R.S. 39:1543.1F.

The following materials are included as an aid to assist administrators, supervisors, loss prevention coordinators, and agency or unit safety officers in managing and implementing safety vessel operation by state employees. Definitions and forms are included and described in the appendix.

Program Goal

The State of Louisiana is committed to a continuing, aggressive program of Water Vessel safety at all levels of state government. Water Vessel safety is intended to increase safety awareness among operators and crews of state vessels, to minimize the State's exposure to liability and financial losses, and to develop agency accountability for safe vessel operation.

Components of Louisiana's WVO Safety Program

Agency Safety Policies and Procedures: Each agency owning/operating a vessel is responsible for implementing a safe Water Vessel program. This program shall include rules concerning who should be permitted to operate

vessels under the agency's control. Policies must outline the roles and responsibilities of managers, supervisors, and employees in Water Vessel safety. These policies should be issued to all Water Vessel's and form the basis for agency's Water Vessel Safety Program. Only employees authorized by the agency head or designee should operate vessels for agency business. The Loss Prevention Unit will provide guidance and direction to agencies in the development of effective Water Vessel safety policies.

It is the agency's responsibility to designate which employees are authorized to operate vessels on state business. The authorization process shall include a review of the employee's or prospective employee's water vessel operating record. The agency should also determine when operator responsibility must be taken away from an employee because of reckless operation of a vessel or boating violations. Only individuals possessing a current authorization may be authorized by an agency to operate a water vessel on state business. High risk operators should not be authorized to operate vessels. High risk operators are those individuals having one or more convictions, guilty pleas, and/or nolo contendere pleas for vessel violations or individuals having a single conviction, guilty, plea, or nolo contendere plea for operating a vessel while intoxicated, careless operation, reckless operation, negligent homicide, interference with navigation or similar violation including any civil case for which negligence has been proven within a one-year period.

All operators of state vessels must attend a Louisiana Better Boating course at least once every three years. Operators who have violations or negligence on their boating records should be required to retake the Better Boating course within a 12-month period. All active U.S. Coast Guard Licensed Captains, operators, and pilots should attend a basic marine safety seminar every five years.

Communication/Organization: The Loss Prevention Unit will work with agencies in setting up the program within the agency and in training instructors who may teach the Louisiana Better Boating course for agency personnel. The Unit will also assist agencies in identifying positions and individuals who can assist in the Water Vessel safety program. The formation of safety committees will be encouraged to communicate the need

for safe boating. The committees may also assist in the review and implementation of the agency's Water Vessel program.

Training: The Office of Risk Management Loss Prevention Unit will assist each agency in implementing Water Vessel safety training programs that address the needs of the agency. "Train the trainer" courses are held periodically around the state for all agencies or upon request by an agency or agencies free of charge. Agencies must designate employees who will be required to take the Water Vessel training course. The course shall be taught by the agency certified instructors. The Boating Law Administrator through the Department of Wildlife and Fisheries in conjunction with the Loss Prevention Section of the Office of Risk Management shall control the instructor designations for this program. The Unit will assist agencies in identifying training aids and resources that can be used for Water Vessel safety.

Accident Analysis: The Office of Risk Management, Claims Unit will investigate and arbitrate claims against the insured interest of the agency. The Office of Risk Management, Loss Prevention Unit will assist the agency in accident analysis and in establishing preventive procedures.

Safety Audits and Record Keeping: The Loss Prevention Unit will assist agencies in reviewing and analyzing the Water Vessel policies and procedures to determine if the agency's program is properly designed to have the intended impact. Data concerning the type, frequency, and amount of claims will be provided to the agency. By providing this data, the Unit assists the agencies in identifying where losses are occurring and how the losses can be reduced or eliminated.

The cost of insurance coverage assessed to each agency's budget is determined by considering three factors: 1) agency's exposure to risk, 2) frequency and severity of claims, and 3) implementation of a Water Vessel safety program.

Responsibility for Safety

The Loss Prevention Unit will assist agencies in organizing, directing,

implementing, and controlling a Water Vessel safety program that minimizes the adverse impact of water vessel accidents. The Boating Law Administrator through the Department of Wildlife and Fisheries in conjunction with the Loss Prevention Unit of the Office of Risk Management shall control the instructor designations for this program.

Department and agency heads are responsible for implementation of the Water Vessel safety program and must stress the importance of the department's Water Vessel safety program to all employees. Department heads or their designees are responsible for reviewing operator records and identifying employees who will be authorized to operate state vessels. They are also responsible for conducting annual reviews of all Water Vessels to determine whether they should continue to operate state-owned vessels. It is recommended that Department heads appoint the transportation coordinator to oversee this program. This appointment will ensure coordination between the Driver Safety Program, the Fleet Management Program, and the Water Vessel Safety Program. They will ensure that state employees who are seaman meet the requirements of all federal and state statutes and/or regulations. Department transportation coordinators plan, organize, direct, and control the Water Vessel safety program for the agency. These coordinators ensure that policies and procedures are established, that training courses are conducted, that Water Vessel records are maintained, and that reports reflecting the impact of the program are provided to the department head and supervisors.

The departments should make time available for each authorized employee to attend the Louisiana Better Boating Course. A start-up period of twelve months has been defined to allow training of employees at times with least impact on the agency's operation. Supervisors are responsible for seeing that all vessels and its appurtenances provided to these employees are reasonably fit for their intended purpose. They must ensure that all water vessel policies and procedures are followed and that reports are submitted on a timely basis.

Employees who are authorized to operate state vessels are responsible for the safe operation of those vessels. They should report any unsafe condition or accident involving the state vessels to their supervisor. Employees must report all vessel accidents and/or citations received.

Accident Reporting

1. A boating/water vessel accident is defined as a collision, accident, or other casualty involving a state water vessel. A vessel is considered to be involved in a boating accident whenever the occurrence results in damage by or to the vessel or its equipment, in injury or loss of life to any person or in the disappearance of any person from on board under circumstances that indicate the possibility of death or injury. A boating accident includes, but is not limited to, capsizing, collision, foundering, flooding, fire, explosion and disappearance of a vessel other than by theft.
2. All accidents shall be reported to the next level of supervision by the vessel operator having the accident on the day of the accident or as soon thereafter as possible on the Boating Accident Report.
3. Failure of a vessel operator to report any accident may be cause for disciplinary action. (Reference R. S. 34:851.10, Wildlife and Fisheries must be notified within 48 hours only if death or injury is involved, or within 5 days if only property damage in excess of \$200.00 is involved).
4. The supervisor of the individual having the accident shall review the accident report within two working days of the accident and verify the accuracy of the report. Incomplete or inaccurate reports are unacceptable and shall be returned for completion or corrected information. The supervisor may have to aid the individual in completing the report.
5. In investigating complex accidents, the supervisor should request assistance from their agency safety personnel or the Office of Risk Management. (If assistance is needed, the supervisor should send the Boating Accident Report form to ORM's Claims Division immediately.)
6. The supervisor of the individual having the accident will, after

reviewing the accident report, make a determination of whether the accident was preventable. The supervisor must consider what corrective action(s) which may include: temporary suspension of operating privileges, special training, physical examination, etc. The remainder of the report should be forwarded to the agency head, or the designee, for completion.

7. Agency heads, or the designee, will review the Boating Accident Report, the Authorization/History Form, and the Water Vessel Record (WVR). The need for corrective disciplinary action may be considered on each accident where there was improper use of a vessel.
8. Agencies will attach a copy of the Boating Accident Report, Authorization/Operating History Form and Water Vessel Record. Forward accident reports to the Department Transportation Coordinator, who will review and forward to the Office of Risk Management. This should be completed within 5 working days.
9. Agencies should lend full support and assistance to outside adjusters, private investigators and other outside contractors who are acting on behalf of Office of Risk Management Claims.
10. An agency is not relieved of the responsibility of completing an Employer First Report of Injury when an employee is injured or the appropriate reports to property/liability claims to give notice of loss or potential loss.

For vessels over 26 feet in length:

- A. The State of Louisiana provides insurance for liability and hull damage.
- B. All claims involving vessels in excess of 26 feet are to be reported in writing to the Office of Risk Management Transportation Unit. All bodily injury claims are to be reported by telephone to the Office of Risk Management's Transportation Unit.

- C. Claims are to be submitted in writing to the Office of Risk Management, Box 94095, Baton Rouge, LA 70804-9095.
- D. Information required to be submitted when a claim is reported to the Office of Risk Management's Transportation Unit includes the following:
 - (1) complete description of vessel including hull identification and coast guard certificate number.
 - (2) name of captain or master and passengers.
 - (3) exact location of incident.
 - (4) date and time of incident.
 - (5) names and addresses of third parties involved if known.
 - (6) description of damages.
 - (7) contact persons who can assist in investigation.
 - (8) circumstances surrounding and/or cause of accident.
 - (9) a completed copy of the Louisiana Boating Accident Report.
- E. All lawsuits, demands, notices, summons or other legal documents pertaining to a claim against a State agency are to be forwarded immediately to the Office of Risk Management's Transportation Unit for further handling.
- F. Any objects and/or products that may have caused, contributed to, or that are suspected of causing an accident are to be retained and preserved as evidence.
- G. If a loss occurs or a claim arises the agency is not to

assume any obligation or incur any expenses without authority from the Office of Risk Management.

- H. Any claim paid by legislative appropriation is to be reported to the Office of Risk Management by Appropriations Control.

For vessels under 26 feet in length:

- A. The State's Comprehensive General Liability coverage provides insurance for bodily injury and property damage.
- B. All general liability claims are to be submitted in writing to the Office of Risk Management on an Accord CGL Form. Accord CGL Forms can be obtained from the Office of Risk Management Claims Section.
- C. Claims are to be submitted in writing to the Office of Risk Management, Box 94095, Baton Rouge, LA 70804-9095.
- D. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.
- E. Claims made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.
- F. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.
- G. Any objects and/or products that may have caused, contributed to, or that are suspected of causing an accident are to be retained and preserved as evidence.
- H. If a loss occurs or a claim arises the agency is not to

assume any obligation or incur any expenses without authority from the Office of Risk Management.

- I. Any claim paid by legislative appropriation is to be reported to the Office of Risk Management by Appropriations Control.
- J. A completed copy of the Louisiana Boating Accident Report, Authorization/History Form and Water Vessel Record will be submitted with claim.

Procedures for Enrolling Operators

Upon approval by their supervisor the employee fills out the Authorization/History form. The information on this form is used to acquire the WVO Record (from the department of Wildlife and Fisheries). The Authorization/History form and the Water Vessel report is then submitted to the Agency head or designee who will review the operator record and sign the Authorization/History form. When the employee is authorized to operate water vessels, he/she should be enrolled in the Louisiana Better Boating course. A copy of the certificate of completion shall be retained by the employee with a copy held in their personnel department records. In addition to the certificate of Louisiana Better Boating course, an employee must sign and file an Acknowledgment of Responsibility form to be held in their personnel records provided by the Department of Wildlife and Fisheries.

For Additional Information

For additional information call the Loss Prevention Unit at 225-342-8529.

Description of Appendix

Definitions: To promote clear communication, frequently used terms in Water Vessel safety are defined.

Authorization/Operating History Form: This form is maintained by the agency on each employee who operates a vessel on a regular basis. The form shows when an employee was authorized, the type of vessel the employee may use, and information on the vessel operator's record.

Authorization for Louisiana State Water Vessel Safety Program: This form is completed on each public employee who operates a water vessel on a regular basis. The agency head may authorize a designee to review vessel operator records and sign this form formally authorizing the employee to operate a water vessel on a regular basis. A copy is provided to the employee and is maintained with the authorization/operator history form.

Boating Accident Form: This form is completed on an accident involving a state vessel. It is critical that employees and supervisors understand their roles in reporting accidents and accurately describe what occurred in a boating accident.

1. **Department Head** - The highest authority within the 20 branches of State Government.
2. **Agency Head** - The highest authority within a subsidiary of a department.
3. **Designee** - Individual(s) specifically designated by the department head to authorize employees to operate a State vessel.
4. **Water Vessel Record (WVR)** - Record maintained by the Department of Wildlife and Fisheries (Enforcement Division) on each operator in the State of Louisiana containing history of boat violations and accidents.
5. **State Vessel** - Any water vessel owned, leased and/or rented by the State of Louisiana. It also includes any privately owned vessels used in the course and scope of employment. Privately owned vessels properly licensed and certified, and properly insured, and where pre-authorization to use the specific vessel

exists. The only exception to be when a private vessel is commandeered in emergency situations.

6. **High Risk Operator** - Individuals having three or more convictions, guilty pleas and/or nolo contendere pleas for vessel violations or individuals having a single conviction, guilty plea or nolo contendere plea for operating a vessel while intoxicated, hit and run operation, vessel negligent injury, reckless operation of a vessel or similar violation, within a one year period.
7. **Transportation Coordinator** - Individual appointed by the department as required by Title 34.
8. **Regular Operator** - Individual whose normal job duty requires him/her to operate a water vessel on a frequent basis (such as once a week).
9. **An Occasional Operator** - An individual whose normal job duty does not require him/her to operate a vessel in the course and scope of his/her employment. (May operate a vessel only on an infrequent basis).
10. **Non-Operator** - An individual whose normal job duty does not require him/her to operate a water vessel in the course and scope of his/her employment and does not normally operate one even in an irregular or infrequent basis. (May operate a vessel in an emergency situation.)
11. **Associated Equipment** - Any system, part or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair or improvement of such system, part or component; any accessory or equipment for, or appurtenance to, a boat; any marine safety article, accessory, or equipment intended for use by a person on board a boat excluding radio equipment.
12. **Boating Accident** - A collision, accident, or other casualty involving an undocumented vessel. A vessel is considered to be

involved in a boating accident whenever the occurrence results in damage by or to the vessel or its equipment, in injury or loss of life to any person, or in the disappearance of any person from on board under circumstances that indicate the possibility of death or injury. A boating accident includes, but is not limited to, capsizing, collision, foundering, flooding, fire, explosion and the disappearance of a vessel other than by theft.

13. **Certificate of Number** - The registration for boats in the State where the boat is principally used, similar to the registration of automobiles.
14. **Civil Offense** - An illegal action for which the statute does not declare imprisonment and does not specifically direct arrest or specifically indicate that the violation is a crime.
15. **Classes of Motorboats:**
 - Class A - Less than 16 feet in length
 - Class 1 - 16 feet to less than 26 feet in length
 - Class 2 - 26 feet to less than 40 feet in length
 - Class 3 - 40 feet to more than 65 feet in length
16. **Coastal Navigable Waters** - As used in the Oil Pollution Act, includes the territorial waters, harbors, bays and rivers, as far as they are affected by the tides.
17. **Collision with Vessel** - Any striking together of two or more vessels, regardless of operation at the time of the accident. This also includes colliding with tow of other vessel, regardless of the nature of the tow, i.e., surfboard, ski ropes, skier, etc.
18. **Documented Vessel** - (46 CFR.67.01) A vessel for which a valid Certificate of Documentation is outstanding. To be documented, a U.S. Yacht must measure 5 net tons or over.
19. **Documents** - A registry (Certificate of Registry), a coastwise license, a Great Lakes license, fishery license, or pleasure

license.

20. **Eligible State** - A State that has a State boating safety program that has been accepted by the Secretary of the Department in which the Coast Guard is operating.
21. **Gross Negligent Operation** - Extreme forms of negligence; an absence of all care.
22. **Hot Pursuit** - An expression of the right of a law enforcement vessel or official to pursue from an area in which jurisdiction exists to an area wherein it would not otherwise exist.
23. **Inland Waters** - The dividing line between inland and international waters as established by the Commandant (Coast Guard). It is used only for the purpose of the Rules of the Road, and enforcement of the inland rules of the road. It has no connection with the territorial waters, high seas, or other terms denoting general jurisdiction or law enforcement except as it applies to laws relating to the navigation of vessels.
24. **Motorboat** - Any vessel 65 feet in length or less, which is propelled by machinery, including steam, except for tug boats and tow boats.
25. **Motorboat Operator License** - A license to operate motorboats, or uninspected vessels of 15 gross tons or less propelled by machinery other than steam, while carrying six or less passengers for hire.
26. **Motor Vessel** - Any vessel more than 65 feet in length, which is propelled by machinery other than steam.
27. **Navigable Waters** - Waters which are in fact, navigable and which by themselves, or their connection with other waters, form a continuous channel for commerce with foreign countries or among the states. In general, this term can be applied to waters that have been navigable in the past, even though not navigable

in fact at the present time.

28. **Negligent Operation** - The failure to exercise that degree of care necessary under the circumstances to prevent the endangering of life, limb or property of any person.
29. **Open Boat** - Those motorboats or motor vessels with all engines and fuel tank compartments (and other spaces to which explosive flammable gases and vapors from these compartments may flow) open to the atmosphere and so arranged to prevent the entrapment of such gases and vapors within the vessel.
30. **Passenger** - Any person other than the master and members of the crew or other persons employed or engaged in any capacity on board a vessel in the business of that vessel.
31. **Passenger Carrying Vessel** - Any vessel that carries more than six passengers, and which is propelled in whole or in part by any form of mechanical or electrical power and is of fifteen to one hundred gross tons.
32. **Personal Flotation Device (PFD's)** - Coast Guard approved life preservers, buoyant vests, ring buoys, special purpose water safety buoyant devices, or buoyant cushions in good and serviceable condition.
33. **State of Principal Use** - The state in which a boat is in use. A motorboat is considered in use when it is waterborne, whether moored or underway. Therefore, in considering a boat moored in State X for 5 days of each week and then operated on the waters of State Y on weekends, State X would be the State of principle use.
34. **State Waters** - Those waters confined entirely within a single state and which do not form a continuous channel for commerce with which Congress or the federal courts have specifically declared to be non-navigable waters of the U.S.

- 35. **Territorial Seas** - All waters extending three miles from the lowest tide. Where bays and estuaries are involved, then under the principle of international law, the nation exercises dominion over the seas not only within the three mile limit from its shores, but also between headlands and three miles outside of a line drawn tangent to the headlands.
- 36. **Territorial Waters** - Territorial seas and waters landward of the baseline from which territorial seas are measured.
- 37. **Undocumented Vessel** - Any vessel which is not required to have and does not have a valid marine document.
- 38. **Use** - To operate, navigate or employ.
- 39. **Vessel** - Every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation.
- 40. **Capsizing** - When a vessel overturns and the bottom becomes uppermost, except in the case of a sailboat. If a sailboat overturns, it will normally lay on its side. (A spilling out of persons, except in the case of a sailboat, without completely overturning the boat is classified as "falls overboard.")
- 41. **Collision with Fixed Object** - The striking of any fixed object, above or below the surface of the water bottom. (The striking of rocks, reefs, shoals, etc., on the bottom is a grounding.)
- 42. **Flooding** - Filling with water, regardless of method of ingress, but retaining sufficient buoyancy to remain upon the surface.
- 43. **Grounding** - A vessel running aground, striking or pounding upon rocks, reefs, shoals, or the bottom.
- 44. **Sinking** - Loss of enough buoyancy for a vessel to settle below the surface of the water.

- 45. **Visible** - Visible on a dark night with a clear atmosphere (in reference to Navigation Rules).
- 46. **Warrant** - A legal document issued by a federal judge or magistrate that commands a law enforcement official to take into custody the person named in the warrant.
- 47. **"Water of the State"** - Any waters within the territorial limits of the State of Louisiana and the marginal sea adjacent to the state and the high seas when navigated as part of a journey or ride to or from the shore of this state.
- 48. **Careless Operation** - Operation of any watercraft in a careless or heedless manner so as to be grossly indifferent to the person or property of other persons or at a rate of speed greater than will permit exercise of reasonable care to bring the watercraft to a stop within the assured clear distance ahead.
- 49. **Reckless Operation** - Operation of any watercraft in such a manner as to endanger the life or limb or damage the property of any person.
- 50. **Negligent Homicide** - Operation of any watercraft at an immoderate rate of speed or in a careless or negligent manner causing the death of another.
- 51. **Interference with Navigation** - Operation of any water craft that unreasonably or unnecessarily interferes with other watercraft or with the free and proper navigation of the waterways of this state.
- 52. **Intoxication** - Operation of any motorboat or vessel or water skis, surfboard or similar device under the influence of alcohol, narcotics, drugs, barbiturates or marijuana. It shall be unlawful for the owner of any watercraft or any person having such in charge or control to authorize or knowingly permit the same to be operated by any person who is intoxicated or otherwise

impaired.

53. **Seaman** - Members of the crew of any vessel who meet the following criteria:

- A. The workman must be assigned permanently to a vessel.
- B. If the duties which he performs contribute to the function of the vessel or to the accomplishment of its mission.
- C. The vessel must be in navigation.
 - (1) "In navigation" is defined as "engaged in an instrument of commerce and transportation on navigable waters".

Acknowledgment of Responsibility

Date: _____

The Louisiana Better Boating Course is designed to further enhance the knowledge of a vessel operator. It is not designed as a basic seamanship course and will not provide the necessary hands-on skills needed by the novice operator.

The emphasis of this course is safety as it applies to equipment, navigation, duties, rules of the road, aboard vessels conduct, and hull design. Its primary goal is to have the vessel operator realize and understand the responsibilities of operator of a motorboat to all affected by this operation.

Through my acknowledgment of signature, I understand and will comply with the safety rules supplied to me through this course.

Student's Signature

VESSEL AUTHORIZATION/OPERATOR HISTORY FORM

The following information will be retained on file by all Agencies on their Operators authorized to operate a State vessel:

Name: _____ Employed by: _____

Address: _____ (Department, Board, Commission)

_____ Zip _____ Assigned to: _____

SSN: _____ (Agency, District, Office)

Operator License No.: _____ Job Title: _____

Expiration Date: _____ Immediate Supervisor's Name: _____

Date of Birth: _____ Operator's Phone Number: _____

Issue Date: _____ Is the Primary purpose to operate vessels? Yes ___ No ___

Is a Current Operator Record attached: _____ Has it been verified as accurate? _____

Will this Operator be authorized to operate his or her privately owned vessel in the course and scope of employment? Yes ___ No ___

| | TYPE 1 | TYPE 2 | TYPE 3 | TYPE 4 | TYPE 5 | TYPE 6 |
|--------------------------------------|--|----------------------------|--------------|--------|----------------------|--------|
| TYPES OF VESSELE: | No motor, Pirogue skiff Raff bateau | Motorboat Class A-1-2-3 | Airboat Push | Tug | Ferry Marsh Buggy | Other |
| State Vessels Authorized to Operate: | | | | | | |

Date Trained: _____ Source of Training: _____

Number of days per week required to operate a vessel: _____

Required to handle hazardous cargo: Yes ___ No ___

Trained to haul/Handle: Yes ___ No ___

I have reviewed this individual's genuine need to operate a State vessel. In conducting this review I have considered his/her operating experience, class/type equipment to be operated, and a one year operating record. The attached Operator Record has been verified as accurate and updated as necessary. I authorize this individual to operate the vessels listed above in accordance with the provisions of this program. This authorization expires in one year from this date.

Agency Head Signature
(or specifically designated individual)

Date of Authorization

DA 2066 (6/06/01)